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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 JB CARTER ENTERPRISES, LLC DBA  
ATM MERCHANT SYSTEMS, a Nevada  
11 Limited Liability Company,

12 Plaintiff,

13 vs.

14 ELAVON, INC., a Georgia Corporation;  
DOE DEFENDANTS 1-10; and ROE  
15 DEFENDANTS 11-20;

16 Defendants.  
17

Case No.: 2:18-cv-00394-JAD-NJK

**STIPULATION AND ORDER TO SET  
ASIDE ECF NO. 163 (TAXING COSTS  
AGAINST ELAVON, INC.) AND  
ALLOWING ELAVON, INC. TO FILE  
ERRATA TO CORRECT ECF NO. 158  
(ELAVON'S BILL OF COSTS)**

**(First Request)**

18  
19 **STIPULATION**

20 Defendant Elavon, Inc. ("Elavon") and Plaintiff JB Carter Enterprises, LLC d/b/a ATM  
21 Merchant Systems ("Plaintiff"), by and through their attorneys of record, hereby stipulate and agree  
22 to set aside the Bill of Costs erroneously taxing costs against Elavon instead of Plaintiff (ECF No.  
23 163) and allowing Elavon to file its Errata to correct the Bill of Costs to correct the switching of the  
24 parties' names (ECF No. 158). This is the first request for such relief.

25 Elavon timely filed its Bill of Costs on August 25, 2023 (ECF No. 158). Elavon also filed a  
26 Motion for Attorneys' Fees and Costs pursuant to Rule 68 on August 25, 2023 (ECF No. 157).  
27 Pursuant to stipulation and order extending the deadline for Plaintiff's Response to the Motion  
28 (ECF Nos. 160 and 161), Plaintiff's Opposition to Defendant's Motion for Attorneys' Fees and

Costs was filed herein on September 13, 2023 (ECF No. 162), making Elavon's Reply brief due September 20, 2023 (with stipulation pending to extend this deadline to September 27, 2023, ECF No. 164).

The Bill of Costs and supporting documentation contain errors whereby the names of the parties are inadvertently switched. For instance, in the Bill of Costs, the parties' names are reversed on the "Judgement having been entered...against" line and "For:" line. The judgment herein (ECF No. 156) was entered partly in favor of Plaintiff and partly in favor of Elavon, in that Elavon obtained judgment in its favor on all but one claim, and Plaintiff was awarded \$1.00 in damages on the remaining claim. Elavon sought to tax costs in favor of Elavon and against Plaintiff, but due to the inadvertent switch in the two names, costs were taxed *against* Elavon, on Elavon's *own* Bill of Costs, on September 19, 2023 (ECF No. 163).

The parties therefore stipulate and agree to **set aside the Bill of Costs taxed against Elavon on September 19, 2023 (ECF No. 163)** on the Bill of Costs submitted by Elavon (August 25, 2023). The parties further stipulate and agree that **Elavon may submit an Errata to correct this error, with the corrected Bill of Costs in Exhibit "A" to that Errata to replace the erroneous Bill of Costs at ECF No. 158. Plaintiff may file a motion to re-tax within seven (7) days after receipt of the filed Errata.**

Dated September 20, 2023.

/s/ Sydney R. Gambee  
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*Attorneys for Elavon, Inc.*

Dated September 20, 2023.

/s/ L. Joe Coppedge  
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*Attorney for JB Carter Enterprises, LLC dba  
ATM Merchant System*

### ORDER

**IT IS SO ORDERED.** The Clerk of Court is directed to **VACATE and SET ASIDE the Bill of Costs at ECF No. 163 and STRIKE the Bill of Costs at ECF No. 158.** Elavon must file its errata consistent with ECF No. 165-1 by 10/10/23. Plaintiff JB Carter Enterprises, LLC d/b/a ATM Merchant Systems will then have 7 days to file any motion to re-tax costs.

  
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U.S. District Judge Jennifer A. Dorsey  
Dated: October 5, 2023